

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 653**

**Introduced by Senator Florez**

February 21, 2003

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An act *to amend Section 929 of the Penal Code, and to amend Section 827 of the Welfare and Institutions Code, relating to minors.*

LEGISLATIVE COUNSEL'S DIGEST

SB 653, as amended, Florez. Juvenile court records: confidentiality.

Existing law provides for the confidentiality of juvenile court records. Existing law authorizes specified persons to inspect juvenile case files.

This bill would revise that provision to additionally authorize any governmental entity that is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records, to inspect those case files, as specified. *The bill would also authorize a grand jury that acts in accordance with specified requirements relating to the release of material that may identify individuals who provided information to the grand jury, to inspect those files. The bill would also make conforming changes to the confidentiality requirements imposed on grand juries.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. *Section 929 of the Penal Code is amended to read:*

929. (a) As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public part or all of the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation, provided that the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, ~~shall not be~~ *are not* released. ~~Prior~~

(b) *Neither of the following may be included in the report required under subdivision (a), or otherwise released:*

(1) *The name of any person, or any facts that might identify any person, who provided information to the grand jury.*

(2) *The name, age, or address of any person contained in any documents received pursuant to subparagraph (M) of paragraph (1) of subdivision (a) of Section 827 of the Welfare and Institutions Code.*

(c) *Prior to granting approval pursuant to this section, a judge may require the redaction or masking of any part of the evidentiary material, findings, or other information to be released to the public including, but not limited to, the identity of witnesses and any testimony or materials of a defamatory or libelous nature.*

SEC. 2. *Section 827 of the Welfare and Institutions Code is amended to read:*

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) His or her parents or guardian.

(E) The attorneys for the parties, and judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

1 (F) The superintendent or designee of the school district where  
2 the minor is enrolled or attending school.

3 (G) Members of the child protective agencies as defined in  
4 Section 11165.9 of the Penal Code.

5 (H) The State Department of Social Services to carry out its  
6 duties pursuant to Division 9 (commencing with Section 10000),  
7 and Part 5 (commencing with Section 7900) of Division 12 of the  
8 Family Code to oversee and monitor county child welfare  
9 agencies, children in foster care or receiving foster care assistance,  
10 and out-of-state placements.

11 (I) To authorized legal staff or special investigators who are  
12 peace officers who are employed by, or who are authorized  
13 representatives of, the State Department of Social Services, as  
14 necessary to the performance of their duties to inspect, license, and  
15 investigate community care facilities, and to ensure that the  
16 standards of care and services provided in those facilities are  
17 adequate and appropriate and to ascertain compliance with the  
18 rules and regulations to which the facilities are subject. The  
19 confidential information shall remain confidential except for  
20 purposes of inspection, licensing, or investigation pursuant to  
21 Chapter 3 (commencing with Section 1500) and Chapter 3.4  
22 (commencing with Section 1596.70) of Division 2 of the Health  
23 and Safety Code, or a criminal, civil, or administrative proceeding  
24 in relation thereto. The confidential information may be used by  
25 the State Department of Social Services in a criminal, civil, or  
26 administrative proceeding. The confidential information shall be  
27 available only to the judge or hearing officer and to the parties to  
28 the case. Names that are confidential shall be listed in attachments  
29 separate to the general pleadings. The confidential information  
30 shall be sealed after the conclusion of the criminal, civil, or  
31 administrative hearings, and shall not subsequently be released  
32 except in accordance with this subdivision. If the confidential  
33 information does not result in a criminal, civil, or administrative  
34 proceeding, it shall be sealed after the State Department of Social  
35 Services decides that no further action will be taken in the matter  
36 of suspected licensing violations. Except as otherwise provided in  
37 this subdivision, confidential information in the possession of the  
38 State Department of Social Services shall not contain the name of  
39 the minor.

1 (J) Members of children’s multidisciplinary teams, persons or  
2 agencies providing treatment or supervision of the minor.

3 (K) A judge, commissioner, or other hearing officer assigned  
4 to a family law case with issues concerning custody or visitation,  
5 or both, involving the minor, and the following persons, if actively  
6 participating in the family law case: a family court mediator  
7 assigned to a case involving the minor pursuant to Article 1  
8 (commencing with Section 3160) of Chapter 11 of Part 2 of  
9 Division 8 of the Family Code, a court-appointed evaluator or a  
10 person conducting a court-connected child custody evaluation,  
11 investigation, or assessment pursuant to Section 3118 of the  
12 Family Code, and counsel appointed for the minor in the family  
13 law case pursuant to Section 3150 of the Family Code. Prior to  
14 allowing counsel appointed for the minor in the family law case to  
15 inspect the file, the court clerk may require counsel to provide a  
16 certified copy of the court order appointing him or her as the  
17 minor’s counsel.

18 (L) Juvenile justice commissions as established under Section  
19 225. The confidentiality provisions of Section 10850 shall apply  
20 to a juvenile justice commission and its members.

21 (M) Any governmental entity that is authorized by law to  
22 conduct an audit or similar activity in connection with the  
23 administration of public social services, including any committee  
24 or legislative body so authorized, with access to any public social  
25 service applications and records described in this section to the  
26 extent of the authorization. Those committees, legislative bodies,  
27 and other entities may only request or use these records for the  
28 purpose of investigating the administration of public social  
29 services, and may not disclose the identity of any applicant or  
30 recipient except in the case of a criminal or civil proceeding  
31 conducted in connection with the administration of public social  
32 services.

33 (N) *Members of the current grand jury of the county acting in*  
34 *accordance with Section 929 of the Penal Code.*

35 (O) Any other person who may be designated by court order of  
36 the judge of the juvenile court upon filing a petition.

37 (2) Notwithstanding any other law and subject to subparagraph  
38 (A) of paragraph (3), juvenile case files, except those relating to  
39 matters within the jurisdiction of the court pursuant to Section 601  
40 or 602, which pertain to a deceased child who was within the

1 jurisdiction of the juvenile court pursuant to Section 300, shall be  
2 released to the public pursuant to an order by the juvenile court  
3 after a petition has been filed and interested parties have been  
4 afforded an opportunity to file an objection. Any information  
5 relating to another child or which could identify another child,  
6 except for information about the deceased, shall be redacted from  
7 the juvenile case file prior to release, unless a specific order is  
8 made by the juvenile court to the contrary. Except as provided in  
9 this paragraph, the presiding judge of the juvenile court may issue  
10 an order prohibiting or limiting access to the juvenile case file, or  
11 any portion thereof, of a deceased child only upon a showing that  
12 release of the juvenile case file or any portion thereof is  
13 detrimental to the safety, protection, or physical, or emotional  
14 well-being of another child who is directly or indirectly connected  
15 to the juvenile case that is the subject of the petition.

16 (3) Access to juvenile case files pertaining to matters within the  
17 jurisdiction of the juvenile court pursuant to Section 300 shall be  
18 limited as follows:

19 (A) If a juvenile case file, or any portion thereof, is privileged  
20 or confidential pursuant to any other state law or federal law or  
21 regulation, the requirements of that state law or federal law or  
22 regulation prohibiting or limiting release of the juvenile case file  
23 or any portions thereof shall prevail. Unless a person is listed in  
24 subparagraphs (A) to (L), inclusive, of paragraph (1) and is  
25 entitled to access under the other state law or federal law or  
26 regulation without a court order, all those seeking access, pursuant  
27 to other authorization, to portions of, or information relating to the  
28 contents of, juvenile case files protected under another state law  
29 or federal law or regulation, shall petition the juvenile court. The  
30 juvenile court may only release the portion of, or information  
31 relating to the contents of, juvenile case files protected by another  
32 state law or federal law or regulation if disclosure is not  
33 detrimental to the safety, protection, or physical or emotional  
34 well-being of a child who is directly or indirectly connected to the  
35 juvenile case that is the subject of the petition. This paragraph shall  
36 not be construed to limit the ability of the juvenile court to carry  
37 out its duties in conducting juvenile court proceedings.

38 (B) Prior to the release of the juvenile case file or any portion  
39 thereof, the court shall afford due process, including a notice of

1 and an opportunity to file an objection to the release of the record  
2 or report to all interested parties.

3 (4) A juvenile case file, any portion thereof, and information  
4 relating to the content of the juvenile case file, shall not be  
5 disseminated by the receiving agencies to any persons or agencies,  
6 other than those persons or agencies authorized to receive  
7 documents pursuant to this section. Further, a juvenile case file,  
8 any portion thereof, and information relating to the content of the  
9 juvenile case file, shall not be made as an attachment to any other  
10 documents, *including the final report of a grand jury prepared in*  
11 *accordance with Section 933 of the Penal Code*, without the prior  
12 approval of the presiding judge of the juvenile court, unless it is  
13 used in connection with and in the course of a criminal  
14 investigation or a proceeding brought to declare a person a  
15 dependent child or ward of the juvenile court.

16 (b) (1) While the Legislature reaffirms its belief that juvenile  
17 court records, in general, should be confidential, it is the intent of  
18 the Legislature in enacting this subdivision to provide for a limited  
19 exception to juvenile court record confidentiality to promote more  
20 effective communication among juvenile courts, family courts,  
21 law enforcement agencies, and schools to ensure the rehabilitation  
22 of juvenile criminal offenders as well as to lessen the potential for  
23 drug use, violence, other forms of delinquency, and child abuse.

24 (2) Notwithstanding subdivision (a), written notice that a  
25 minor enrolled in a public school, kindergarten to grade 12,  
26 inclusive, has been found by a court of competent jurisdiction to  
27 have committed any felony or any misdemeanor involving curfew,  
28 gambling, alcohol, drugs, tobacco products, carrying of weapons,  
29 a sex offense listed in Section 290 of the Penal Code, assault or  
30 battery, larceny, vandalism, or graffiti shall be provided by the  
31 court, within seven days, to the superintendent of the school  
32 district of attendance. Written notice shall include only the offense  
33 found to have been committed by the minor and the disposition of  
34 the minor's case. This notice shall be expeditiously transmitted by  
35 the district superintendent to the principal at the school of  
36 attendance. The principal shall expeditiously disseminate the  
37 information to those counselors directly supervising or reporting  
38 on the behavior or progress of the minor. In addition, the principal  
39 shall disseminate the information to any teacher or administrator  
40 directly supervising or reporting on the behavior or progress of the

1 minor whom the principal believes needs the information to work  
2 with the pupil in an appropriate fashion, to avoid being needlessly  
3 vulnerable or to protect other persons from needless vulnerability.

4 Any information received by a teacher, counselor, or  
5 administrator under this subdivision shall be received in  
6 confidence for the limited purpose of rehabilitating the minor and  
7 protecting students and staff, and shall not be further disseminated  
8 by the teacher, counselor, or administrator, except insofar as  
9 communication with the juvenile, his or her parents or guardians,  
10 law enforcement personnel, and the juvenile's probation officer is  
11 necessary to effectuate the juvenile's rehabilitation or to protect  
12 students and staff.

13 An intentional violation of the confidentiality provisions of this  
14 paragraph is a misdemeanor punishable by a fine not to exceed five  
15 hundred dollars (\$500).

16 (3) If a minor is removed from public school as a result of the  
17 court's finding described in subdivision (b), the superintendent  
18 shall maintain the information in a confidential file and shall defer  
19 transmittal of the information received from the court until the  
20 minor is returned to public school. If the minor is returned to a  
21 school district other than the one from which the minor came, the  
22 parole or probation officer having jurisdiction over the minor shall  
23 so notify the superintendent of the last district of attendance, who  
24 shall transmit the notice received from the court to the  
25 superintendent of the new district of attendance.

26 (c) Each probation report filed with the court concerning a  
27 minor whose record is subject to dissemination pursuant to  
28 subdivision (b) shall include on the face sheet the school at which  
29 the minor is currently enrolled. The county superintendent shall  
30 provide the court with a listing of all of the schools within each  
31 school district, within the county, along with the name and mailing  
32 address of each district superintendent.

33 (d) Each notice sent by the court pursuant to subdivision (b)  
34 shall be stamped with the instruction: "Unlawful Dissemination  
35 Of This Information Is A Misdemeanor." Any information  
36 received from the court shall be kept in a separate confidential file  
37 at the school of attendance and shall be transferred to the minor's  
38 subsequent schools of attendance and maintained until the minor  
39 graduates from high school, is released from juvenile court  
40 jurisdiction, or reaches the age of 18, whichever occurs first. After



1 that time the confidential record shall be destroyed. At any time  
2 after the date by which a record required to be destroyed by this  
3 section should have been destroyed, the minor or his or her parent  
4 or guardian shall have the right to make a written request to the  
5 principal of the school that the minor's school records be reviewed  
6 to ensure that the record has been destroyed. Upon completion of  
7 any requested review and no later than 30 days after the request for  
8 the review was received, the principal or his or her designee shall  
9 respond in writing to the written request and either shall confirm  
10 that the record has been destroyed or, if the record has not been  
11 destroyed, shall explain why destruction has not yet occurred.

12 Except as provided in paragraph (2) of subdivision (b), no  
13 liability shall attach to any person who transmits or fails to transmit  
14 any notice or information required under subdivision (b).

15 (e) For purposes of this section, a "juvenile case file" means  
16 a petition filed in any juvenile court proceeding, reports of the  
17 probation officer, and all other documents filed in that case or  
18 made available to the probation officer in making his or her report,  
19 or to the judge, referee, or other hearing officer, and thereafter  
20 retained by the probation officer, judge, referee, or other hearing  
21 officer.

